

Introduced by Senator Speier
(Coauthor: Assembly Member Karnette)

February 24, 2006

An act to add Chapter 7 (commencing with Section 12500) to Part 2 of Division 2 of the Public Contract Code, relating to state contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1629, as introduced, Speier. Public contracts: The Federal Laboratory Technology Contracting Act.

The State Contract Act governs contracting between state agencies and private contractors, and sets forth requirements for the procurement of materials, supplies, equipment, and services by state agencies. Existing law sets out the various responsibilities of the Department of General Services, and other state agencies in overseeing and implementing state contracting procedures and policies.

This bill would enact the Federal Laboratory Technology Contracting Act to modify the existing contracting procedures and policies to require a state agency that contracts with a federally funded research laboratory, as defined, to make contract payments in advance, indemnify, to the extent permitted by state law, the laboratory, as provided, and reimburse the laboratory for the actual costs incurred in performing the contracted services. This bill would also require the Governor to designate the Secretary of State and Consumer Services as the state representative for purposes of communicating and negotiating with the representatives of the United States Department of Energy, National Aeronautics and Space Administration (NASA), and federally funded laboratories, as provided.

This bill would set forth legislative findings and declarations regarding existing policies and procedures governing state contracts with federally funded research laboratories located in California.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 7 (commencing with Section 12500) is
2 added to Part 2 of Division 2 of the Public Contract Code, to
3 read:

4
5 CHAPTER 7. THE FEDERAL LABORATORY CONTRACTING ACT
6

7 12500. This chapter is known and shall be cited as the
8 Federal Laboratory Technology Contracting Act.

9 12501. The Legislature finds and declares all of the
10 following:

11 (a) Technological advances are an important part of
12 California's economy and, therefore, it would be wise for state
13 agencies to contract, in a facile and efficient manner, with
14 federally funded research laboratories located in California that
15 are often at the forefront of science and technology.

16 (c) As the major funding agency and owner of several
17 research laboratories located in California, the Department of
18 Energy allows outside parties to contract with the laboratories but
19 it requires the laboratories, when initiating and finalizing any
20 contracts with outside parties, to adhere to rigorous policies and
21 procedures developed by the department. The State of California
22 has its own laws and procedures governing state contracts. The
23 research laboratories owned by the Department of Energy have
24 attempted to contract with state agencies and departments in
25 California, but with minimum success. Conflicting provisions
26 and policies in federal and state laws and seemingly unachievable
27 compromises appear to be the major limiting factors in the
28 successful negotiation of contracts between the federally funded
29 laboratories and California state agencies and departments.

1 (c) The State of California shall develop policies and
2 procedures to streamline the contracting process with federally
3 funded laboratories and shall create a master contract that could
4 be used by any state agency or department in negotiating a
5 contract with one of those laboratories.

6 12502. (a) Notwithstanding any other provision of law, a
7 state agency that enters into a contract with a federally funded
8 research laboratory shall do all of the following:

9 (1) If requested by the contracting party, make contract
10 payments to a laboratory for contracted services in advance.

11 (2) To the extent permitted by state law, indemnify a
12 laboratory with respect to the product liability, intellectual
13 property, and general liability claims arising out the activities to
14 be carried out by the laboratory pursuant to the contract.

15 (3) Reimburse a laboratory for the actual costs incurred by the
16 laboratory in rendering its services under the contract with the
17 state agency.

18 (b) For purposes of this chapter, “federally funded research
19 laboratory” means a research laboratory that is affiliated with a
20 federal agency and is funded, at least in part, by the federal
21 government.

22 (c) The Governor shall designate the Secretary of State and
23 Consumer Services as the state representative for purposes of
24 communicating and negotiating with the representatives of the
25 United States Department of Energy, National Aeronautics and
26 Space Administration (NASA), and federally funded laboratories
27 regarding any issue that may affect a contractual relationship
28 between the state and these federal entities.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety
31 within the meaning of Article IV of the Constitution and shall go
32 into immediate effect. The facts constituting the necessity are:

33 In order for California state agencies and departments to be
34 able to contract, in a facile and efficient manner, with federally
35 funded research laboratories located in this state for purposes of
36 developing new technologies that may protect public health and
37 welfare, it is necessary that this act take effect immediately.